

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ANGELIQUE JESTER,

Plaintiff,

21 Civ.

-against-

VERIFIED COMPLAINT

NATIONAL RAILROAD PASSENGER CORP.,

JURY TRIAL DEMANDED

Defendant.

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NOW COMES Plaintiff, Angelique Jester, by and through her attorneys, FLYNN & WIETZKE, P.C., and ROME, ARATA, BAXLEY & STELLY, L.L.C. and for her complaint against NATIONAL RAILROAD PASSENGER CORP., states as follows:

PARTIES

1. Plaintiff, Angelique Jester, is an adult individual, residing at 289 E. Stearns St., Rahway, New Jersey 07065, and has been assigned to Defendant's New York crew base for nine years.

2. Defendant, National Railroad Passenger Corporation d/b/a "Amtrak" (hereinafter "Amtrak"), its predecessors, subsidiaries, agents, servants and employees, at all times pertinent in the part or past, is a domestic corporation engaged in the business of a common carrier by railroad in interstate commerce. At all relevant times, Defendant and/or Defendant's predecessors in interest were regularly and systematically conducting its business activities within the jurisdiction of this Court, as a common carrier of interstate and intrastate commerce and were engaged in interstate commerce and transportation.

3. Defendant, its predecessors, subsidiaries, agents, servants and employees, at all times pertinent in the past maintained headquarters and its principal place of business within the City of New York, and/or maintained sales offices within the City of New York and/or transacted business within the City of New York.

4. At all times material hereto and for some time prior thereto, Plaintiff was in the employ of Defendant working as a Conductor, in furtherance of the carrier's business of interstate commerce and transportation by railroad.

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JURISDICTION AND VENUE

5. This is an action arising under the Federal Employers' Liability Act, 45 U.S.C. §51, *et seq.* ("the FELA"), to recover damages for personal injuries sustained by Plaintiff Angelique Jester while in the course of her employment with Defendant Amtrak.

6. This Court has jurisdiction and venue of this matter pursuant to 45 U.S.C. §56.

COUNT I

7. On or about December 25, 2019, Plaintiff was in the usual and customary performance of her duties as a Conductor working for Defendant Amtrak on the train originating and staffed in New York NY, traveling to Washington, DC.

8. On the aforesaid date, Christmas Day, the train was overcrowded with holiday travelers, but no additional crew had been assigned. Additionally, while *en route*, Plaintiff's train had to accommodate even more passengers who were transferred from a second train which was taken out of service. Plaintiff found the overcrowded, understaffed, disorganized, and dangerous conditions she was forced to work in to be "utterly chaotic."

9. When the train arrived late to Washington, DC, Plaintiff was tasked with assisting passengers from two overloaded cars with detraining. As she stood on the platform giving directions, answering questions, assisting passengers from the train onto the platform and with their luggage, suddenly and without warning, a passenger fell from the steps of the train vestibule onto Plaintiff.

10. The accident caused Plaintiff to suffer serious and disabling injuries to her back, *inter alia*.

11. Plaintiff was injured while engaged in the course and scope of her employment for Amtrak as a result of Defendant's negligence.

12. The injuries to Plaintiff were due in whole or in part to the negligence of Defendant Amtrak, its agents, servants, or employees acting in the course and scope of their employment. Plaintiff's accident, injuries, and damages as herein-described resulted from breaches of the duties owed by the Defendant Amtrak to Plaintiff under the Federal Employers' Liability Act, 45 U.S.C. §51, *et seq.*, as follows:

- a. Amtrak breached its duty to Plaintiff by failing to provide Plaintiff with a reasonably safe place to work;
- b. Amtrak failed to warn Plaintiff of the dangers to which it was exposing her;
- c. Amtrak failed to prevent the creation of the hazardous dangerous conditions in an area it knew its employee(s) would be required to work;
- d. Amtrak failed to provide reasonably safe methods of work;
- e. Amtrak required Plaintiff to perform her job duties in an area that contained hidden dangers, despite Amtrak's clear actual and/or constructive notice that these dangerous conditions existed;
- f. Amtrak forced Plaintiff to work in unsafe working conditions (i.e., on an overcrowded, understaffed, disorganized, and dangerously chaotic train);
- g. Amtrak failed to have an adequate number of employees working on the train and/or the platform to assist with detraining the inordinate number of passengers traveling on this particular train, despite Amtrak's clear notice that the train was overcrowded and this unsafe condition existed;
- h. Amtrak failed to comply with the applicable government regulations; and
- i. Amtrak failed to exercise due care and caution commensurate with the surrounding circumstances.

13. Plaintiff's injuries resulted from the negligence of Defendant Amtrak as enunciated above, without any fault or negligence on the part of Plaintiff contributing thereto.

PRAYER FOR RELIEF

14. As a result of Defendant's aforesaid negligence, Plaintiff sustained serious and permanent physical injuries to her back, *inter alia*, and has suffered, and will continue to suffer into the future physical pain and mental anguish. Plaintiff's earning capacity has been diminished, and Plaintiff has lost, and may in the future lose, substantial time from employment with a significant loss of earnings therefrom. Plaintiff has incurred, and may in the future, incur expenses for medical and related treatment.

15. Plaintiff avers that, at the time of the incidents and concomitant injuries made the basis of this lawsuit, she was an able-bodied employee of Amtrak, and Plaintiff demands full recovery for all sums reasonable in the premises for the following categories of damages:

- a. Physical pain and suffering, past and future;
- b. Mental anguish, past and future;
- c. Loss of enjoyment of life, past and future;
- d. Lost wages, loss of earning capacity, and/or loss of fringe benefits, past and future; and
- e. Unpaid medical expenses, past and future.

WHEREFORE, Plaintiff, Angelique Jester, demands judgment in her favor and against Defendant, National Railroad Passenger Corporation d/b/a “Amtrak,” for compensatory damages together with costs, interest, and any further and additional relief that this Honorable Court deems appropriate.

Dated: August 19, 2021, Garden City, New York.

Respectfully Submitted,

FLYNN & WIETZKE, PC



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